

Subpart D—Qualification Requirements for Export Warehouse Proprietors

SOURCE: 25 FR 4716, May 28, 1960, unless otherwise noted. Redesignated at 40 FR 16835, Apr. 15, 1975.

§ 44.81 Persons required to qualify.

Every person who intends to engage in business as an export warehouse proprietor, as defined in this part, shall qualify as such in accordance with the provisions of this part.

(72 Stat. 1421; 26 U.S.C. 5711, 5712, 5713)

§ 44.82 Application for permit.

Every person, before commencing business as an export warehouse proprietor, must apply on TTB Form 2093 (5200.3) and obtain the permit provided for in § 44.93. All documents required under this part to be furnished with such application shall be made a part thereof.

(72 Stat. 1421; 26 U.S.C. 5712)

[25 FR 4716, May 28, 1960. Redesignated at 40 FR 16835, Apr. 15, 1975, as amended by T.D. ATF-480, 67 FR 30801, May 8, 2002]

§ 44.83 Corporate documents.

Every corporation, before commencing business as an export warehouse proprietor, shall furnish with its application for permit required by § 44.82, a true copy of the corporate charter or a certificate of corporate existence or incorporation, executed by the appropriate officer of the State in which incorporated. The corporation shall also furnish, in duplicate, evidence which will establish the authority of the officer or other person who executes the application for permit to execute the same; the authority of persons to sign other documents, required by this part, for the corporation; and the identity of the officers and directors, and each person who holds more than ten percent of the stock of such corporation. Where a corporation has previously filed such documents or evidence with the appropriate TTB officer, a written statement by the corporation, in duplicate, to that effect will be

sufficient for the purpose of this section.

(72 Stat. 1421; 26 U.S.C. 5712)

§ 44.84 Articles of partnership or association.

Every partnership or association, before commencing business as an export warehouse proprietor, shall furnish with its application for permit, required by § 44.82 a true copy of the articles of partnership or association, if any, or certificate of partnership or association where required to be filed by any State, county, or municipality. Where a partnership or association has previously filed such documents with the appropriate TTB officer, a written statement by the partnership or association, in duplicate, to that effect will be sufficient for the purpose of this section.

(72 Stat. 1421; 26 U.S.C. 5712)

§ 44.85 Trade name certificate.

Every person, before commencing business under a trade name as an export warehouse proprietor, shall furnish with his application for permit, required by § 44.82, a true copy of the certificate or other document, if any, issued by a State, county, or municipal authority in connection with the transaction of business under such trade name. If no such certificate or other document is so required a written statement, in duplicate, to that effect by such person will be sufficient for the purpose of this section.

(72 Stat. 1421; 26 U.S.C. 5712)

[T.D. 6961, 33 FR 9491, June 28, 1968. Redesignated at 40 FR 16835, Apr. 15, 1975]

§ 44.86 Bond.

Every person, before commencing business as an export warehouse proprietor, shall file, in connection with his application for permit, a bond, Form 2103 (5220.5), in accordance with the applicable provisions of § 44.88 and subpart F, conditioned upon compliance with the provisions of chapter 52, I.R.C., and regulations thereunder, including, but not limited to, the timely payment of taxes imposed by such chapter and penalties and interest in

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connection therewith for which he may become liable to the United States.

(72 Stat. 1421; 26 U.S.C. 5711)

[25 FR 4716, May 28, 1960. Redesignated at 40 FR 16835, Apr. 15, 1975, as amended by T.D. ATF-480, 67 FR 30801, May 8, 2002]

§ 44.87 Power of attorney.

If the application for permit or other qualifying documents are signed by an attorney in fact for an individual, partnership, association, company, or corporation, or by one of the partners for a partnership, or by an officer of an association or company, or, in the case of a corporation, by an officer or other person not authorized to sign by the corporate documents described in § 44.83, power of attorney conferring authority upon the person signing the documents shall be manifested on Form 5000.8 in accordance with its instructions.

[25 FR 4716, May 28, 1960. Redesignated at 40 FR 16835, Apr. 15, 1975, as amended by T.D. ATF-480, 67 FR 30802, May 8, 2002]

§ 44.88 Description and diagram of premises.

The premises to be used by an export warehouse proprietor as his warehouse shall be described, in the application for permit required by § 44.82, and bond required by § 44.86, by number, street, and city, town, or village, and State. Such premises may consist of more than one building, which need not be contiguous: *Provided*, That such premises are located in the same city, town, or village and each located is described in the application for permit and the bond by number and street. Where such premises consist of less than an entire building, a diagram, in duplicate, shall also be furnished showing the particular floor or floors, or room or rooms, comprising the warehouse.

(72 Stat. 1421; 26 U.S.C. 5712)

§ 44.89 Separation of premises.

Where the export warehouse premises consist of less than an entire building, the premises shall be completely separated from adjoining portions of the building, which separation shall be constructed of materials generally used in the construction of buildings

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and may include any necessary doors or other openings.

(72 Stat. 1421; 26 U.S.C. 5712)

§ 44.90 [Reserved]

§ 44.91 Additional information.

The appropriate TTB officer may require such additional information as may be deemed necessary to determine whether the applicant is entitled to a permit. The applicant shall, when required by the appropriate TTB officer, furnish as a part of his application for permit such additional information as may be necessary for the appropriate TTB officer to determine whether the applicant is entitled to a permit.

§ 44.92 Investigation of applicant.

(a) *Investigation*. The appropriate TTB officer shall promptly cause such inquiry or investigation to be made, as may be necessary, to verify the information furnished in connection with an application for permit and to ascertain whether the applicant is eligible for a permit. Any of the following conditions may be grounds for denial of a permit:

(1) The premises on which it is proposed to conduct the business are not adequate to protect the revenue; or

(2) The applicant (including, in the case of a corporation, any officer, director, or principal stockholder and, in the case of a partnership, a partner)—

(i) Is, by reason of his business experience, financial standing, or trade connections or by reason of previous or current legal proceedings involving a felony violation of any other provision of Federal criminal law relating to tobacco products, processed tobacco, cigarette paper, or cigarette tubes, not likely to maintain operations in compliance with this chapter;

(ii) Has been convicted of a felony violation of any provision of Federal or State criminal law relating to tobacco products, processed tobacco, cigarette paper, or cigarette tubes; or

(iii) Has failed to disclose any material information required or made any material false statement in the application therefor.

(b) *TTB action*. An appropriate TTB officer who has reason to believe that the applicant is not entitled to a permit shall promptly give the applicant